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October 10, 2003
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Shelley P.M. Fussey



Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: *U.S. Patent Application Serial No.10/081,935; Entitled "Peptide and DNA Immunization Against Coccidioides Immitis Infections"; Cox, Magee and Jiang; Client Ref. 2000-28-UTIL1*

Sir:

Enclosed for filing in the above-referenced patent application are the following:

(1) An Amendment; and Response to Restriction Requirement dated September 11, 2003; and

(2) A return postcard listing these materials.

No fees should be due. However, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, the Commissioner is authorized to deduct said fees from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/4003.001800.

Please date stamp and return the enclosed postcard to evidence receipt of these materials.

Respectfully submitted,

Williams, Morgan & Amerson, P.C.
Customer No. 23720

Shelley P.M. Fussey, Ph.D.
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Encls.

CERTIFICATE OF MAILING
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Shelley P.M. Fussey



**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Rebecca A. Cox, D. Mitchell Magee
and Chengyong Jiang

Serial No.: 10/081,935

Filed: February 22, 2002

For: PEPTIDE AND DNA IMMUNIZATION AGAINST *COCCIDIOIDES IMMITIS* INFECTIONS

Group Art Unit: 1645

Examiner: Baskar, P.

Atty. Dkt. No.: 4003.001800

**AMENDMENT; AND RESPONSE TO**
**RESTRICTION REQUIREMENT DATED SEPTEMBER 11, 2003**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Examiner is respectfully requested to enter the following amendments. A response to the Restriction Requirement dated September 11, 2003 ("the Requirement") is also submitted, and the Examiner is requested to consider the remarks and enter the election therein. The response is timely filed and no fees should be required. However, any fees due should be deducted from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/4003.001800.

## AMENDMENT

The present amendment cancels claims 26-32. According to 37 C.F.R. § 1.121(c), after entry of the present amendment, the following claims are in the case:

1. (Original) An isolated nucleic acid segment comprising at least a first isolated coding region that encodes a first peptide of between 18 and about 24 amino acids in length that comprises an amino acid sequence that is at least about 88% identical to the amino acid sequence of SEQ ID NO:2.

2. (Original) The nucleic acid segment of claim 1, wherein said at least a first isolated coding region encodes a first peptide that comprises an amino acid sequence that is at least about 94% identical to the amino acid sequence of SEQ ID NO:2.

3. (Original) The nucleic acid segment of claim 2, wherein said at least a first isolated coding region encodes a first peptide comprising the amino acid sequence of SEQ ID NO:2.

4. (Original) The nucleic acid segment of claim 3, wherein said at least a first isolated coding region encodes a first peptide that has the amino acid sequence of SEQ ID NO:2.

5. (Original) The nucleic acid segment of claim 3, wherein said at least a first isolated coding region comprises the nucleotide sequence of SEQ ID NO:1.

6. (Original) The nucleic acid segment of claim 5, wherein said at least a first isolated coding region has the nucleotide sequence of SEQ ID NO:1.

7. (Original) The nucleic acid segment of claim 1, wherein said at least a first isolated coding region is positioned under the control of a promoter.

8. (Original) The nucleic acid segment of claim 1, wherein said nucleic acid segment further comprises at least a second isolated coding region that encodes a second protein, polypeptide or peptide.

9. (Original) The nucleic acid segment of claim 8, wherein said at least a first isolated coding region is operatively attached, in frame, to said at least a second isolated coding region and wherein said nucleic acid segment encodes a fusion protein in which said first peptide is linked to said second protein, polypeptide or peptide.

10. (Original) The nucleic acid segment of claim 8, wherein said at least a second isolated coding region encodes a second, distinct *Coccidioides spp.* protein, polypeptide or peptide.

11. (Original) The nucleic acid segment of claim 10, wherein said at least a second isolated coding region encodes a second, distinct polypeptide or peptide sequence from SEQ ID NO:4.

12. (Original) The nucleic acid segment of claim 8, wherein said at least a second isolated coding region encodes an adjuvant protein, polypeptide or peptide.

13. (Original) The nucleic acid segment of claim 1, further defined as a recombinant vector.

14. (Original) The nucleic acid segment of claim 1, comprised within a recombinant host cell.

15. (Original) The nucleic acid segment of claim 1, comprised within a pharmaceutically acceptable carrier or diluent.

16. (Original) A recombinant vector that comprises at least a first isolated nucleic acid segment in accordance with claim 1.

17. (Original) A recombinant host cell that comprises at least a first isolated nucleic acid segment in accordance with claim 1.

18. (Original) The recombinant host cell of claim 17, wherein said host cell further comprises at least a second isolated coding region that encodes a second, distinct *Coccidioides spp.* protein, polypeptide or peptide.

19. (Original) The recombinant host cell of claim 17, wherein said host cell is a prokaryotic host cell.

20. (Original) The recombinant host cell of claim 17, wherein said host cell is a yeast host cell or a mammalian host cell.

21. (Original) A composition comprising at least a first isolated nucleic acid segment in accordance with claim 1.

22. (Original) The composition of claim 21, wherein said composition further comprises at least second isolated coding region that encodes a second, distinct *Coccidioides spp.* protein, polypeptide or peptide.

23. (Original) The composition of claim 21, wherein said composition comprises a pharmaceutically acceptable carrier or diluent.

24. (Original) The composition of claim 21, wherein said composition further comprises at least a first adjuvant.

25. (Original) A vaccine formulation comprising, in a pharmaceutically acceptable form, an immunologically effective amount of at least a first isolated nucleic acid segment in accordance with claim 1.

**Claims 26-32 canceled**

## RESPONSE

### I. Restriction Requirement

The Office has determined that the pending claims are drawn to five distinct and separate inventions, set forth as:

Group I: Claims 1-25, said to be drawn to an isolated nucleic acid SEQ ID NO:1, recombinant vector, composition and vaccine comprising said nucleic acid, classified in class 536, subclass 23.7;

Group II: Claims 30 and 31, said to be drawn to an isolated polypeptide comprising SEQ ID NO:2 and composition, classified in class 435, subclass 69.1;

Group III: Claims 26-28, said to be drawn to a method for generating an immune response using nucleic acid encoding peptide, classified in class 514, subclass 44;

Group IV: Claim 29, said to be drawn to a method of treating or preventing coccidioidomycosis using nucleic acid encoding peptide, classified in class 424, subclass 184.1; and

Group V: Claim 32, said to be drawn to a method for generating an immune response using peptide, classified in class 424, subclass 191.1.

### II. Election

Applicants elect the Group I invention without traverse. Applicants reserve the right to pursue the claims of the non-elected inventions in divisional or other applications claiming priority to the present case.

### III. Status of the Claims

Prior to the Requirement, claims 1-32 were pending. Presently, claims 26-32 have been canceled as drawn to a non-elected invention. No claims have been amended or added.

Claims 1-25 are therefore in the case. According to the revisions to 37 C.F.R. § 1.121(c), a copy of the pending claims is provided in the amendment section.

## IV. Conclusion

This is a complete response to the referenced Restriction Requirement. No fees should be due. Should the Examiner have any questions or comments, a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,
Williams, Morgan & Amerson, P.C.
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Date: October 10, 2003